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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,590	03/12/2004	Kjell-Owe HJERTH	07589.0160.PCUS00	2589

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EXAMINER

SY, MARIANO ONG

ART UNIT PAPER NUMBER

3683

DATE MAILED: 08/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/708,590

Applicant(s)

HJERTH ET AL.

Examiner

Mariano Sy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The response filed on March 18, 2005 has been received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by B.A. Swennes et al. (U.S. 2,044,649).

Re-claim 1 Swennes et al. disclosed, as shown in fig. 18, a spring element capable of being use in transmitting compression and tensile forces between a vehicle frame and a wheel axle, spring element comprises: a rubber body 38; a mechanical connection 36 that extends through the rubber body and is arranged to limit the distancing movement between the vehicle frame and the axle, said connection member comprises a coupling device 37 for coupling the connection member to at least one of vehicle frame and axle; and the coupling device further comprises a first stub 37 with a threaded portion protruding from the spring element, the first stub including fixing means, which can be a nut fastened to the stub 37, for obtaining a rotationally fixed, form-fit to a round hole on said at least one vehicle frame and axle.

Re-claim 2 Swennes et al. disclosed, as shown in fig. 18, wherein said transmittal forces is effected between the axle and an end of a bogie beam pivotably mounted to the vehicle frame.

Re-claim 4 Swennes et al. disclosed, as shown in fig. 18, wherein an axis of symmetry of said threaded portion substantially coincides with an axis of symmetry of said rubber body.

Re-claim 5 Swennes et al. disclosed, as shown in fig. 18, wherein said first stub comprises a conical portion, which can be readable as the chamfer end of the stub 37.

Re-claim 6 Swennes et al. disclosed, as shown in fig. 18, wherein the threaded portion further comprises a second stub with external threads and which protrudes from the spring element.

Re-claim 7 Swennes et al. disclosed, as shown in fig. 18, wherein said threaded portions of the respective first and second stubs are configured to cooperate with a threaded element when coupled to a respective vehicle frame or axle.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thaung et al. (U.S. 4,615,513) in view of Swennes et al..

Re-claims 1 and 2 Thaung et al. disclosed, as shown in fig. 1-2, a spring element configured to transmit compression and tensile forces between a vehicle frame and a wheel axle, spring element comprises: a rubber body 16; a mechanical connection 20,22 that extends through the rubber body and is arranged to limit the distancing movement between the vehicle frame and the axle, said connection member comprises a coupling device, which can be the mounting holes on end plate 12,14 for coupling the connection member to at least one of vehicle frame and axle; wherein said transmittal forces is effected between the axle and an end of a bogie beam pivotably mounted to the vehicle frame.

However Thaung et al. fail to disclose the coupling device further comprises a first stub with a threaded portion protruding from the spring element, the first stub

including fixing means for obtaining a rotationally fixed, form-fit on said at least one vehicle frame and axle.

Swennes et al. teaches, as shown in fig. 18, a coupling device comprises a first stub 37 with a threaded portion protruding from the spring element, the first stub including fixing means, which can be a nut fastened to the stub 37, for obtaining a rotationally fixed, form-fit to a round hole on said at least one vehicle frame and axle.

It would have been obvious to one of ordinary skill in the art to have merely utilized the known coupling device into the spring element of Thaung et al., in view of the teaching of Swennes et al., in order to have a rigid and positive connection between the vehicle frame and the axle.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swennes et al. in view of Damico (U.S. 4,607,893).

Re-claim 3 Swennes et al. failed to wherein said fixing means further comprises a bevel configured to co-operate with the corresponding bevel arranged on said at least one of vehicle frame and wheel axle.

Damico teaches, as shown in fig. 9, a shaft 100 forming a flat 102 and a bushing 98 that is non-rotatably mounted on the shaft.

It would have been obvious to one of ordinary skill in the art to have merely utilized a known joint or connection of a shaft having a flat portion that cooperates with another element with a through hole also having a corresponding flat portion into the

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spring element of Swennes et al., in view of the teaching of Damico, in order to provide a non-rotatable joint or connection between two elements.

8. Applicant's arguments filed on March 18, 2005 have been fully considered but they are not persuasive.

Examiner maintains the rejection is proper. The prior arts Swennes et al. '649 and Thaung et al. '513 still read on claim 1.

Applicant argued in the "Remarks" that "Claim 1 for example does not require a helical, metallic spring as part of the spring element"; "to be rotationally fixed to the vehicle frame or wheel axle because of a conformance fit (form fit)". The phrase "form fit" is relatively broad. The threaded stud of the spring element of Swennes et al., as shown in fig. 18, including a fixing means which can be a nut fastened and tightened with specific torque to the threaded stud for obtaining a rotationally fixed and form-fit to a round hole on vehicle frame and axle in order to have a rigid and positive connection between the vehicle frame and the axle. Claim 1 recites "a spring element comprises" and not "consists". Applicant's argument is more specific than the claim language.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mariano Sy whose telephone number is 571-272-7126. The examiner can normally be reached on Mon.-Fri. from 8:30 A.M. to 2:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor, can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 M. Sy

August 09, 2005

THOMAS WILLIAMS
PATENT EXAMINER



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8-15-05